

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Lisa Wilson Foley for Congress, *et al.*

MUR 6566

FOURTH GENERAL COUNSEL'S REPORT

I. INTRODUCTION

In this matter, the Commission found reason to believe that the authorized campaign committee of 2012 congressional candidate Lisa Wilson-Foley knowingly and willfully violated 52 U.S.C. §§ 30116(f) and 30104(b) by accepting and failing to report excessive contributions from her husband, Brian Foley, including in-kind contributions and a separate \$500,000 contribution; and that Lisa Wilson-Foley violated 52 U.S.C. § 30116(f) by accepting the \$500,000 excessive contribution from Brian Foley. The Commission also found reason to believe that Brian Foley knowingly and willfully violated 52 U.S.C. §§ 30116(a) and 30122 by making contributions in the names of four individuals and violated 52 U.S.C. § 30116(a) by making a \$500,000 excessive contribution to Lisa Wilson-Foley and the Committee.¹ The Commission authorized joint pre-probable cause conciliation with Lisa Wilson-Foley and the Committee, and separate conciliation with Brian Foley.² Attached are two final negotiated agreements, signed by counsel for Foley and counsel for the Committee and Wilson-Foley, respectively, to settle the violations. For the reasons discussed below, we recommend that the Commission accept these negotiated agreements.

¹ See Certification, MUR 6566 (July 20, 2015); Certification, MUR 6566 (May 25, 2016).

² See Certification, MUR 6566 (May 25, 2016).

1 Further, the Commission previously took no action against two additional respondents —
2 Apple Health Care, Inc. and John Rowland. For the reasons discussed below, we recommend
3 that the Commission find no reason to believe that Apple Health Care, Inc. violated 52 U.S.C.
4 § 30118(a) and no reason to believe that Rowland violated 52 U.S.C. § 30118(a), and close the
5 file.

6 II. BACKGROUND

7 This matter was initiated by two Complaints alleging that Apple Health Care, Inc. made
8 an impermissible in-kind corporate contribution to congressional candidate Lisa Wilson-Foley
9 and her principal campaign committee by paying for consulting services provided to the
10 Committee by former Connecticut Governor John Rowland during the 2012 election cycle.³ In
11 the course of parallel criminal proceedings, Brian Foley, Lisa Wilson-Foley's spouse (and
12 president of Apple Health Care, Inc.) admitted that he personally paid Rowland for working on
13 Lisa Wilson's Foley's 2012 campaign.⁴ Lisa Wilson-Foley and Brian Foley each pleaded guilty
14 to conspiring to make illegal campaign contributions in connection with the payments to
15 Rowland.⁵ Rowland was tried and found guilty on a variety of charges related to his participation in this
16 activity.⁶

17 Following the conclusion of the criminal proceedings, on July 14, 2015, the Commission
18 found reason to believe Lisa Wilson-Foley for Congress and Lisa Wilson-Foley in her official
19 capacity as treasurer (the "Committee") knowingly and willfully violated 52 U.S.C. §§ 30116(f)

³ See Compl., MUR 6566; Compl., MUR 6604. The Commission merged the relevant portion of MUR 6604 into MUR 6566. See Certification, MURs 6566 and 6604 (Feb. 28, 2014).

⁴ See *United States v. Lisa Wilson-Foley*, Crim. No. 3:14CR-65 (D. Conn. Mar. 31, 2014); *United States v. Brian Foley*, Crim. No. 3:14CR-65 (D. Conn. Mar. 31, 2014).

⁵ *Id.*

⁶ See *infra* at 9 n.25.

1 and 30104(b) by accepting and failing to report \$35,000 in excessive in-kind contributions from
2 Brian Foley.⁷ The Commission also determined to take no action at that time as to Apple Health
3 Care, Inc. and John Rowland,⁸ and this Office commenced an investigation.

4 As part of the investigation, we obtained information
5 against Lisa Wilson-Foley, Brian Foley, and
6 Rowland. The information provided by Brian Foley's sworn testimony at Rowland's
7 criminal trial detailed conduct previously unknown to the Commission, including: (1) Brian
8 Foley's reimbursement of four individuals for contributions to the Committee totaling \$30,000;
9 and (2) a \$500,000 contribution Brian Foley made to Lisa Wilson-Foley from Brian Foley's self-
10 described "separate" assets for the purpose of contributing to her campaign.⁹ On the basis of that
11 information, the Commission named Lisa Wilson-Foley and Brian Foley as respondents in their
12 individual capacities and provided each with an opportunity to respond to the information.¹⁰
13 Wilson-Foley and Foley each asserted in response that there was no information to show that
14 Wilson-Foley's contributions to her campaign came solely and exclusively out of funds provided
15 to her by Foley.¹¹ Subsequently, on May 24, 2016, the Commission found reason to believe that:
16 (1) Brian Foley knowingly and willfully violated 52 U.S.C. §§ 30116(a) and 30122 by making
17 contributions in the names of four individuals and violated 52 U.S.C. § 30116(a) by making a
18 \$500,000 excessive contribution to Lisa Wilson-Foley and the Committee; (2) the Committee

⁷ See Certification, MUR 6566 (July 20, 2015); Factual and Legal Analysis, MUR 6566 (Lisa Wilson-Foley for Congress) (July 20, 2015).

⁸ See Certification, MUR 6566 (July 20, 2015).

⁹ See Third General Counsel's Report, MUR 6566.

¹⁰ See Memorandum to the Commission, MUR 6566 (Oct. 16, 2015); Certification, MUR 6566 (Oct. 29, 2015).

¹¹ Lisa Wilson-Foley Resp. ¶ 6 (Feb. 16, 2016); Brian Foley Resp. ¶ 8 (Feb. 16, 2016).

1 violated 52 U.S.C. §§ 30104(b) and 30116(f) by accepting a \$500,000 excessive contribution
2 from Brian Foley; and (3) Lisa Wilson-Foley violated 52 U.S.C. § 30116(f) by accepting a
3 \$500,000 excessive contribution from Brian Foley.¹²

4 At that time, the Commission authorized pre-probable cause conciliation with Brian
5 Foley, and separately with the Committee and Lisa Wilson-Foley, and approved two separate
6 conciliation agreements.¹³ Accordingly, OGC engaged in conciliation discussions with these
7 three respondents. At the outset of negotiations, they each waived confidentiality in order for
8 OGC to be able to communicate freely among them during conciliation. Although they each
9 signed substantial tolling agreements during the extended conciliation period, the adjusted statute
10 of limitations on a portion of the activity will run shortly.¹⁴

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¹² See Certification, MUR 6566 (May 25, 2016).

¹³ See *id.*

¹⁴ For example, the SOL on the Brian Foley payments comprising the in-kind contribution in the Committee CA ranges from September 24, 2017, to February 18, 2018. Brian Foley, Lisa Wilson-Foley, and the Committee provided 360, 180, and 180 days of tolling, respectively, during conciliation, in addition to tolling provided in exchange for extensions of time to respond to earlier notifications.

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IV. DISPOSITION OF REMAINING RESPONDENTS

The Complaints alleged that Apple Health Care, Inc. paid Rowland for his work with the Committee, thereby making an in-kind contribution to the Committee in violation of the Act's prohibition on corporate contributions.¹⁹ Brian Foley, however, admitted in his guilty plea to personally paying Rowland for his work with the Committee.²⁰ Accordingly, we recommend that the Commission find no reason to believe that Apple Health Care, Inc. violated 52 U.S.C. § 30118(a).²¹

As for Rowland, in the First General Counsel's Report in this matter we recommended that the Commission find no reason to believe he violated 2 U.S.C. § 441b(a) (now 52 U.S.C. § 30118(a)), based on the available information that he was not an officer or director of Apple Health, the apparent source of the alleged payments to Rowland, and consequently would not have authorized or consented to the alleged corporate contribution.²² The FGCR further stated that

¹⁹ Compl. at 1-2, MUR 6566; Compl. ¶ 1, Ex. 1, MUR 6604. Corporations are prohibited from contributing to federal candidate committees. 52 U.S.C. § 30118(a). "Contributions" include anything of value made by any person for the purpose of influencing any election to federal office, which includes in-kind contributions. 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(d)(1).

²⁰ See *United States v. Brian Foley*, Crim. No. 3:14CR-65 (D. Conn. Mar. 31, 2014); Second GCR at 2-3, MUR 6566.

²¹ At the FGCR stage before Brian Foley and Lisa Wilson-Foley pleaded guilty, we recommended that the Commission find reason to believe that Apple Health violated 2 U.S.C. § 441b(a) (now 52 U.S.C. § 30118(a)). See FGCR at 11-19, 25. The Commission did not take action on this recommendation. See Certification, MUR 6566 (Feb. 28, 2014).

²² See FGCR at 20, 25.

1 Rowland did not appear to have accepted the alleged corporate contribution for the Committee
2 because there did not appear to be an agency relationship between Rowland and the Committee.²³
3 The Commission did not take action on this recommendation.²⁴ Although the evidence now shows
4 that Brian Foley paid Rowland, it remains that Rowland neither made nor accepted the
5 contribution to the Committee.²⁵ On this basis, we recommend that the Commission find no
6 reason to believe that Rowland violated 52 U.S.C. §§ 30118(a). Finally, we recommend that the
7 Commission close the file in this matter.

8 V. RECOMMENDATIONS

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- 10 1. Accept the attached signed conciliation agreement with Brian Foley;
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- 12 2. Accept the attached signed conciliation agreement with Lisa Wilson-Foley for
- 13 Congress and Lisa Wilson-Foley in her official capacity as treasurer;
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- 15 3. Take no further action as to Lisa Wilson-Foley;
- 16
- 17 4. Find no reason to believe that Apple Health Care, Inc. violated 52 U.S.C.
- 18 § 30118(a).
- 19
- 20 5. Find no reason to believe that John Rowland violated 52 U.S.C. § 30118(a);
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- 22 6. Approve the attached Factual and Legal Analyses;
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- 24 7. Approve the appropriate letters; and

²³ See *id.*

²⁴ See Certification, MUR 6566 (Feb. 28, 2014).

²⁵ Rowland was tried and found guilty of aiding and abetting violations of 2 U.S.C. §§ 441a(a)(1)(A) and 441a(f) (now 52 U.S.C. §§ 30116(a)(1)(A) and 30116(f)) (making and accepting excessive contributions) and for violating 18 U.S.C. §§ 1519 (falsification of records), 371 (conspiracy), and 1001 (false statements). See Jury Verdict, *United States v. Rowland*, Crim. No. 3:14CR-79 (D. Conn. Sept. 19, 2014). On March 18, 2015, he was sentenced to 30 months in prison. See Sentencing, *United States v. Rowland*, Crim. No. 3:14CR-79 (D. Conn. Mar. 18, 2015). Rowland's conviction was affirmed on appeal. See *United States v. Rowland*, 826 F.3d 100 (2d Cir. 2016).

8. Close the file.

Lisa J. Stevenson
Acting General Counsel

7/11/2017

Date

Kathleen M. Guith
Kathleen M. Guith
Associate General Counsel for
Enforcement

Mark Allen
Mark Allen
Assistant General Counsel

Attachments:

5. Factual and Legal Analysis for Apple Health Care, Inc.
6. Factual and Legal Analysis for John Rowland

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 RESPONDENT: Apple Health Care, Inc.

MUR 6566

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5 **FACTUAL AND LEGAL ANALYSIS**

6
7 **I. INTRODUCTION**

8 This matter was generated by a Complaint filed with the Federal Election
9 Commission alleging that Apple Health Care, Inc. ("Apple Health") made in-kind
10 contributions to Lisa Wilson-Foley for Congress (the "Committee") in violation of the
11 Federal Election Campaign Act of 1971, as amended (the "Act").¹ Specifically, the
12 Complaint alleges that Apple Health paid John Rowland, a former governor of
13 Connecticut, as a "consultant" while he provided campaign work for the Committee,
14 suggesting that those payments were in fact payments for services Rowland provided the
15 campaign.² The president of Apple Health is Brian Foley, the spouse of Lisa Wilson-
16 Foley.

17 **II. FACTUAL AND LEGAL ANALYSIS**

18 Corporations are prohibited from contributing to federal candidate committees.³
19 "Contribution" under the Act and Commission regulations includes the payment by any
20 person of compensation for the personal services of another person rendered to a political
21 committee without charge for any purpose.⁴

¹ The Committee is the principal campaign committee of Lisa Wilson-Foley, a candidate for the U.S. House of Representatives in the Fifth Congressional District of Connecticut in 2012.

² Compl. ¶ 6, MUR 6566. The same allegations were made in the Complaint in MUR 6604. The Commission severed these allegations from MUR 6604 and merged them into MUR 6566.

³ 52 U.S.C. § 30118(a).

⁴ 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. §§ 100.52(d), 100.54.

1 Brian Foley admitted in his guilty plea to personally paying Rowland for his work
2 with the Committee.⁵ Accordingly, the Commission finds no reason to believe that
3 Apple Health made a corporate contribution in violation of 52 U.S.C. § 30118(a).

⁵ See *United States v. Brian Foley*, Crim. No. 3:14CR-65 (D. Conn. Mar. 31, 2014).

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 RESPONDENT: John Rowland MUR 6566
4

5 **FACTUAL AND LEGAL ANALYSIS**
6

7 **I. INTRODUCTION**

8 This matter was generated by a Complaint filed with the Federal Election
9 Commission alleging that Apple Health Care, Inc. ("Apple Health") made in-kind
10 contributions to Lisa Wilson-Foley for Congress (the "Committee") in violation of the
11 Federal Election Campaign Act of 1971, as amended (the "Act").¹ Specifically, the
12 Complaint alleges that Apple Health paid John Rowland, a former governor of
13 Connecticut, as a "consultant" while he provided campaign work for the Committee,
14 suggesting that those payments were in fact payments for services Rowland provided the
15 campaign.² The president of Apple Health is Brian Foley, the spouse of Lisa Wilson-
16 Foley.

17 **II. FACTUAL AND LEGAL ANALYSIS**

18 Corporations are prohibited from contributing to federal candidate committees.³
19 Corporate officers and directors may not "consent" to any contribution by the corporation
20 that is prohibited by section 30118(a).⁴ The Act further prohibits any candidate, political
21 committee, or other person from knowingly accepting or receiving an impermissible

¹ The Committee is the principal campaign committee of Lisa Wilson-Foley, a candidate for the U.S. House of Representatives in the Fifth Congressional District of Connecticut in 2012.

² Compl. ¶ 6, MUR 6566. The same allegations were made in the Complaint in MUR 6604. The Commission severed these allegations from MUR 6604 and merged them into MUR 6566.

³ 52 U.S.C. § 30118(a).

⁴ *Id.*

1 corporate contribution.⁵ “Contribution” under the Act and Commission regulations
2 includes the payment by any person of compensation for the personal services of another
3 person rendered to a political committee without charge for any purpose.⁶

4 The Complaint alleges that Rowland was a paid consultant for Apple Health while
5 he provided assistance to the Wilson-Foley campaign, purportedly in a volunteer
6 capacity.⁷ The Complaint further alleges that Apple Health’s payments to Rowland may
7 have constituted unreported corporate contributions from Apple Health to the
8 Committee.⁸

9 Rowland is not an officer or director of Apple Health and consequently would not
10 have authorized or consented to the alleged corporate contribution.⁹ Nor does Rowland
11 appear to have accepted the alleged contribution for the Committee because there did not
12 appear to be an agency relationship between Rowland and the Committee. Although the
13 evidence now shows that Brian Foley paid Rowland, it remains that Rowland neither
14 made nor accepted the contribution to the Committee.¹⁰

⁵ *Id.*

⁶ 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. §§ 100.52(d), 100.54.

⁷ Compl. ¶ 1, MUR 6566.

⁸ *Id.* ¶ 6.

⁹ *See* 52 U.S.C. § 30118(a).

¹⁰ *See United States v. Brian Foley*, Crim. No. 3:14CR-65 (D. Conn. Mar. 31, 2014). Rowland was tried and found guilty of aiding and abetting violations of 2 U.S.C. §§ 441a(a)(1)(A) and 441a(f) (now 52 U.S.C. §§ 30116(a)(1)(A) and 30116(f)) (making and accepting excessive contributions) and for violating 18 U.S.C. §§ 1519 (falsification of records), 371 (conspiracy), and 1001 (false statements). *See* Jury Verdict, *United States v. Rowland*, Crim. No. 3:14CR-79 (D. Conn. Sept. 19, 2014). On March 18, 2015, he was sentenced to 30 months in prison. *See* Sentencing, *United States v. Rowland*, Crim. No. 3:14CR-79 (D. Conn. Mar. 18, 2015). Rowland’s conviction was affirmed on appeal. *See United States v. Rowland*, 826 F.3d 100 (2d Cir. 2016).

- 1 Accordingly, the Commission finds no reason to believe that John Rowland
- 2 violated 2 U.S.C. § 30118(a).

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